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APPLICATION NO.	- FII	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,639	01/26/2004		George Kenneth Adleman JR.	A12: 1032	9110
	7590	02/11/2005		EXAM	INER
EDWIN L. H	IARTZ		PATEL, KIRAN B		
2537 FALLS VIEW CIRCLE GRAND JUNCTION, CO 81505				ART UNIT	PAPER NUMBER
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DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		$\mathcal{V}_{\mathcal{I}}$					
	Application No.	Applicant(s)					
Office Action Summan	10/764,639	ADLEMAN, GEORGE KENNETH					
Office Action Summary	Examiner	Art Unit					
	Kiran B. Patel	3612					
The MAILING DATE of this communication Period for Reply \	appears on the cover sheet w	ith the correspondence address					
A SHORTENED STATUTORY PERIOD FOR RETHE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CF after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, and If NO period for reply is specified above, the maximum statutory period for reply within the set or extended period for reply will, by six any reply received by the Office later than three months after the meanned patent term adjustment. See 37 CFR 1.704(b).	ON. R 1.136(a). In no event, however, may a i. a reply within the statutory minimum of thi criod will apply and will expire SIX (6) MOI tatute, cause the application to become A	reply be timely filed ty (30) days will be considered timely. NTHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).					
Status							
1)⊠ Responsive to communication(s) filed on 2 2a)□ This action is FINAL. 2b)⊠ 3)□ Since this application is in condition for allocation accordance with the practice und	This action is non-final. owance except for formal mat						
Disposition of Claims							
4) Claim(s) 1-26,29 and 30 is/are pending in (4a) Of the above claim(s) 14 and 15 is/are 5) Claim(s) is/are allowed. 6) Claim(s) 1-4,9-13,16-22,24-25,29-30 is/are 7) Claim(s) 5-8 and 23,26 is/are objected to. 8) Claim(s) are subject to restriction and Application Papers	withdrawn from consideration e rejected.	i.					
9)☐ The specification is objected to by the Exar	niner.						
	0) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to							
Replacement drawing sheet(s) including the co	•						
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for form a) All b) Some * c) None of: 1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the application from the International But * See the attached detailed Office action for a	nents have been received. nents have been received in a priority documents have been reau (PCT Rule 17.2(a)).	Application No n received in this National Stage					
Attachment(s)	∆ □ 1-1	Summary (PTO 413)					
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SE Paper No(s)/Mail Date) Paper No	Summary (PTO-413) (s)/Mail Date Informal Patent Application (PTO-152) 					

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DETAILED ACTION

Non-Final Rejection

Election/Restriction

1. Applicant's election of Group I, Species A, Fig 1-5, 8-27 and claims 1-13, 16-26, 29-30, is acknowledged.

Claims 14-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC \$ 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1-3, 18-20, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lessard (5,522,685).

Regarding claims 1-3, 18-20, 29, Lessard (5,522,685) discloses in Fig. 1-7 the invention as claimed to include a cargo bed Fig 1, a first 22 and a second 22 attached member, a first 20 and a second 20 movable member, a cross member 18, a first 28 and a second safety latch 28, and means 28 for securing each telescoping sections.

Claim Rejections - 35 USC \$ 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 4, 30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lessard (5,522,685) in view of Wheeler, III (6,244,646).

Regarding claims 4, 30, Lessard (5,522,685) discloses the invention as claimed.

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However, Lessard (5,522,685) does not disclose a lifting block and means for elevating attached member.

Wheeler, III (6,244,646) discloses in Fig 1-14 a lifting block 122 and means 122 for elevating attached member.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Lessard (5,522,685), to include a lifting block and means for elevating attached member, as disclosed by Wheeler, III (6,244,646), to elevate rear end of each attached member.

4. Claims 9-13, 21-22, 24-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lessard (5,522,685) and in view of ordinary skill in the art.

Regarding claims 9-13, 21-22, 24-25, Lessard (5,522,685) discloses the invention as claimed to include means for keeping the rear end of each attached member above the level of the truck bed Fig 1, and holes at selected distances 50.

However, Lessard (5,522,685) does not disclose the first and second attached members consists of schedule 10 steel pipe and between 5-8 feet long, the first/second movable members and cross member consists of schedule 40 steel

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pipe and 5-8 feet long, and the area near the front/rear of the bed is within one foot of the front/rear end of the cargo bed.

It would have been obvious to one having ordinary skill in the art at the time the invention was provide the first and second attached members consists of schedule 10 steel pipe and between 5-8 feet long, the first/second movable members and cross member consists of schedule 40 steel pipe and 5-8 feet long, and the area near the front/rear of the bed is within one foot of the front/rear end of the cargo bed, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use to optimize the cost of the product made in light of size, availability, capacity to manufacture, manufacturing technology, transportability, optimize the number of parts, safety and other considerations and still meet the design specifications. Higher level of cost efficiency can be achieved by identifying the required material from materials known/available in the open market than to develop new material.

5. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lessard (5,522,685) in view of Stanley (5,829,945).

Regarding claims 16-17, Lessard (5,522,685) discloses the invention as claimed.

However, Lessard (5,522,685) does not disclose a safety latch.

Stanley (5,829,945) discloses in Fig 1-20 a safety latch 30.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Lumley et al. (5,630,645), to include a safety latch, as disclosed by Stanley (5,829,945), to safely latch the attached and the movable member.

Allowable Subject Matter

6. Claims 5-8, 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

<u>Conclusion</u>

7. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

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8. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 703-305-0254. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Kiran B. Patel, P. E. Primary Examiner Art Unit 3612

February 8, 2005